

1 never appoint under any circumstances, and in effect make
2 the appointment himself.

3 I think it is far less dangerous to have this
4 happen in the higher level courts where the circuits
5 are large and where the focus of public attention is great;
6 where the evil is most likely to occur, if it ever does
7 occur, in connection with the nominating committees; that
8 the commissions would recommend eligible appointments to the
9 superior court, or to the district court. It is there
10 that the governor should be protected by making his
11 choice at least a real one, by giving him the opportunity
12 to pick at least three men.

13 I am sorry that the case of Garrett County comes
14 back and plays a part in so many of our deliberations.
15 Hard cases make bad law. They have six lawyers there
16 anyway, and I think they will be able to find three eligible
17 appointees.

18 In any event, on the one side you have protecting
19 the executive power from the possibility that the nominating
20 commissions will be abused in the local areas, especially with
21 respect to the district court and superior court judges.